

## REMARKS

2 The rejection of claims 1 - 16 under 35 USC 103(a) is respectfully  
3 traversed.

## 4 Two of the references are not valid

5 Of the references cited by the examiner, only Sugii ('559) was published  
6 before the filing date of the present application and the others therefore do  
7 not qualify as prior art under 35 USC 102(e)(1). Since none of the  
8 references has issued, they do not qualify under 35 USC 102(e)(2).

9 The examiner has cited Sugii only for having the correct direction of  
10 strain, and there is no suggestion in Sugii of the limitations of the  
11 independent claims 1 or 9.

12 The references do not combine to teach or suggest the invention as  
13 claimed.

1       In the event that the foregoing argument as to the validity of the references  
2       is invalid, Applicants also maintain that the references do not combine to  
3       teach or suggest the invention as claimed.

4       The Lee reference ('647) is admitted by the examiner to not show the  
5       claimed tensile strain direction perpendicular to the channel direction.

6       The Sugii reference ('559) shows (in FIG. 2 and paragraph [0104]) a  
7       method in which a relaxed SiGe layer 2 has a strained Si layer 3 deposited  
8       on it, followed by a relaxed SiGe layer 4 and another strained Si layer 5.  
9       Further, in FIGs 6 and 7, Sugii shows the removal of SiGe layer 4.

10      The Yeo reference ('599) shows in FIG 2 a SiGe layer 2 with a strained Si  
11      layer deposited on it. It also shows a method of preparation that includes  
12      cleaving the composite wafer to remove the SiGe layer.

13      Clearly, these very different approaches do not combine to show the  
14      claimed method. It is settled law that there must be a motive or teaching to  
15      make a combination of references - not just hindsight. In particular, the

1                   examiner may not “cherry pick” steps from very different methods to meet  
2                   the restrictions of the claims.

3                   Applicants remind the examiner that the active claims are method claims  
4                   and similarities in structure provided by different methods are not relevant  
5                   to the validity of the method claims.

6                   For the foregoing reasons, allowance of the claims is respectfully  
7                   solicited.

8                   Respectfully submitted,

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